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May 30, 2014

Via Electronic Filing

Honorable James Orenstein
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Phoenix Beverages, Inc., et al. v. Exxon Mobil Corp., et al.*
Case No. 1:12-CV-03771-PC-JO

Dear Judge Orenstein:

Beijing
Boston
Frankfurt
Hartford
Hong Kong
Lexington (GSC)
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Washington

I write on behalf of third-party defendant TDY Industries, LLC (f/k/a TDY Industries, Inc.) ("TDY") to object to the proposed First Amended Case Management and Scheduling Order submitted on behalf of certain third-party defendants to the extent it proposes to require TDY to retain and pay the fees of liaison counsel, including specifically either of the joint defense group counsel identified as "liaison" counsel in the May 23, 2014 letter filed with the Court (Document 390-1).

TDY does not believe that it bears any responsibility for the contamination at issue in this case and understands that its *alleged* liability is *de micromis* in nature. As a result, TDY has not participated in any of the referenced discovery activities to date and expects that its future participation will be commensurate with its alleged nominal liability. The proposal submitted by certain of the third-party defendants seeks to require TDY to fund--on a *per capita* basis--litigation activities TDY has not participated in and does wish to participate in. In essence, the proposal seeks to require TDY to fund the litigation activities of other third-party defendants.

The two third-party defendant joint defense groups submitting the proposed CMO may wish to pursue a litigation strategy that involves substantial participation by those third-party defendants in all phases of this litigation, notwithstanding the proposal to reserve issues related to the liability of the third-party defendants until a later date. But TDY

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does not agree that its alleged exposure warrants such participation and submits that requiring TDY to retain and pay the fees of joint defense/liaison counsel is not necessary or appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Duke K. McCall, III".

Duke K. McCall, III

cc: Counsel of Record (via ECF)